

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Cedillo Analyst: Darrine Distefano Bill Number: AB 63

Related Bills: See Prior Analysis Telephone: 845-6458 Amended Date: 06-13-2001

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: FTB Disclosure of Tax Return Information to City Tax Officials if Written Agreement

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

☒ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced December 6, 2000.

☒ FURTHER AMENDMENTS NECESSARY.

☒ DEPARTMENT POSITION CHANGED TO SUPPORT.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED December 6, 2000. STILL APPLIES.

OTHER - See comments below.

SUMMARY

This bill would allow the Franchise Tax Board (FTB) to:

- Disclose a taxpayer's name, address, social security or taxpayer identification number, and business activity code to tax officials of a city under specific limited circumstances, and
- Recover the costs of providing tax information to tax officials of any city before furnishing any information under this bill.

SUMMARY OF AMENDMENT

The June 13, 2001, amendment added double-joining language that specifies this bill would become operative only if AB 205 is enacted and becomes effective on or before January 1, 2002. With the exception of the new Board position, the department's analysis of the bill as introduced on December 6, 2000, still applies. The unresolved implementation concerns and updated departmental costs are provided below for convenience.

POSITION

Support.

At its May 2, 2001, meeting, the Franchise Tax Board voted 2-0 to support this bill, with Annette Porini, on behalf of Member B. Timothy Gage, abstaining.

Board Position:

<input checked="" type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

06/26/01

IMPLEMENTATION CONSIDERATIONS

This bill would allow FTB to share with cities certain confidential tax information, including business activity codes received from the Internal Revenue Service (IRS) returns. A large number of the business activity codes used by FTB are obtained from IRS data shared with FTB. Federal law and IRS policy require that information obtained from the IRS by FTB not be disclosed or used in any unauthorized manner. Currently, FTB is authorized to use information obtained from the IRS to resolve state income tax issues. If FTB uses information received from the IRS that is then to be reported to a city under this bill, FTB would exceed its authority to use IRS information. Consequently, reporting this information to a contracting city would likely be interpreted by IRS as an unauthorized use of IRS information that violates both federal law and the terms of FTB's agreement with the IRS.

Current FTB systems do not have the ability to provide the information necessary to comply with this bill without using federal data. To comply with the bill without violating the current FTB-IRS information sharing agreement, FTB would have to create a new database and processes to capture the information. FTB would have no other use for the database and processes beyond reporting the information to contracting cities.

The Schedule CA (California Adjustment Schedule) and the instructions would be revised to include a business activity code. FTB staff would scan the Schedule CA and key the business activity code into a database where the information would be retained for future reporting to contracting cities.

Depending on the type of business a taxpayer may operate, the taxpayer may have multiple business activity codes. The Schedule CA form will only have one line to report the business activity code. If the intent of the bill is to track the different types of businesses a taxpayer is involved in, the intent may not be satisfied because FTB would report only the code given on the Schedule CA.

FTB currently performs periodic audits on other state agencies that receive confidential tax information to ensure compliance with the practices and procedures for the protection and proper disposal of confidential tax information. FTB would have to expand these audits to the contracting cities that receive confidential taxpayer information.

DEPARTMENTAL COSTS

FTB would incur significant costs for developing the requisite new processes, for the additional employee hours required to develop and maintain the new database, and for purchasing equipment. In the year of implementation, it is estimated that FTB costs would be approximately **\$1.8 million** to cover an expected **15 personnel years (PYs)**. For the year following implementation, costs would be approximately **\$435,000** to cover an expected **12 PYs**.

In addition, FTB would need another **2 PYs** at an annual cost of **\$150,000** for periodic audits of the cities to ensure that recipients of the tax information are complying with the statutory confidentiality requirements.

This bill would allow FTB to recover its costs of providing tax information to tax officials of any city. Before FTB would furnish any information under this bill, the following would have to occur:

- an agreement would have to be executed with the city providing the city would pay all first year costs necessary for FTB to furnish the city the proper information;
- an agreement would have to be executed that would provide that the city would reimburse FTB for the annual costs thereafter; and
- FTB will receive an amount equal to the first year costs before any information is furnished.

LEGISLATIVE STAFF CONTACT

Darrine Distefano
Franchise Tax Board
845-6458

Brian Putler
Franchise Tax Board
845-6333